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10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2009-5
ACCUSATION

13 **REBECCA LYNN DIPOLI**

940 Lawton
14 Roseville, CA 95678

15 **Registered Nurse License No. 647564,**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
20 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
21 Department of Consumer Affairs.

22 2. **Rebecca Lynn Dipoli**. On or about November 5, 2004, the Board of
23 Registered Nursing ("Board") issued Registered Nurse License Number 647564 to Rebecca
24 Lynn Dipoli ("Respondent"). The license will expire on August 31, 2008, unless renewed.

25 **JURISDICTION**

26 3. Section 2750 of the Business and Professions Code ("Code") provides:

27 Every certificate holder or licensee, including licensees
28 holding temporary licenses, or licensees holding licenses placed
in an inactive status, may be disciplined as provided in this article

1 [Article 3 of the Nursing Practice Act (Bus. & Prof. Code, § 2700
2 et seq.)]. As used in this article, 'license' includes certificate,
3 registration, or any other authorization to engage in practice
4 regulated by this chapter. The proceedings under this article
5 shall be conducted in accordance with Chapter 5 (commencing
6 with Section 11500) of Part 1 of Division 3 of Title 2 of the
7 Government Code [the Administrative Procedure Act], and
8 the board shall have all the powers granted therein.

9 **STATUTORY PROVISIONS**

10 4. Code section 2761 provides, in pertinent part:

11 The board may take disciplinary action against a certified
12 or licensed nurse or deny an application for a certificate or license
13 for any of the following:

14 (a) Unprofessional conduct

15 5. Code section 2762 provides, in pertinent part:

16 In addition to other acts constituting unprofessional conduct
17 within the meaning of this chapter [the Nursing Practice Act], it is
18 unprofessional conduct for a person licensed under this chapter to
19 do any of the following:

20 (a) Obtain or possess in violation of law, or prescribe,
21 or except as directed by a licensed physician and surgeon,
22 dentist, or podiatrist administer to himself or herself, or
23 furnish or administer to another, any controlled substance
24 as defined in Division 10 (commencing with Section 11000) of
25 the Health and Safety Code or any dangerous drug or dangerous
26 device as defined in Section 4022.

27

28 (e) Falsify, or make grossly incorrect, grossly inconsistent,
or unintelligible entries in any hospital, patient, or other record
pertaining to the substances described in subdivision (a) of this
section.

6. Code section 4022 provides:

"Dangerous drug" or "dangerous device" means any drug
or device unsafe for self-use in humans or animals, and includes
the following:

(a) Any drug that bears the legend: "Caution: federal law
prohibits dispensing without prescription," "Rx only," or words
of similar import.

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1 (b) Any device that bears the statement: "Caution:
2 federal law restricts this device to sale by or on the order of a
3 _____," "Rx only," or words of similar import, the blank
4 to be filled in with the designation of the practitioner licensed
5 to use or order use of the device.

6 (c) Any other drug or device that by federal or state
7 law can be lawfully dispensed only on prescription or furnished
8 pursuant to Section 4006.

9 7. Code section 4060 provides:

10 No person shall possess any controlled substance, except
11 that furnished to a person upon the prescription of a physician,
12 dentist, podiatrist, optometrist, veterinarian, or naturopathic
13 doctor pursuant to Section 3640.7, or furnished pursuant to a
14 drug order issued by a certified nurse-midwife pursuant to
15 Section 2746.51, a nurse practitioner pursuant to Section 2836.1,
16 a physician assistant pursuant to Section 3502.1, a naturopathic
17 doctor pursuant to Section 3640.5, or a pharmacist pursuant
18 to either subparagraph (D) of paragraph (4) of, or clause (iv)
19 of subparagraph (A) of paragraph (5) of, subdivision (a) of
20 Section 4052. This section shall not apply to the possession
21 of any controlled substance by a manufacturer, wholesaler,
22 pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
23 veterinarian, naturopathic doctor, certified nurse- midwife, nurse
24 practitioner, or physician assistant, when in stock in containers
25 correctly labeled with the name and address of the supplier
26 or producer.

27 8. Health and Safety Code section 11173, provides, in pertinent part:

28 (a) No person shall obtain or attempt to obtain controlled
substances, or procure or attempt to procure the administration of
or prescription for controlled substances, (1) by fraud, deceit,
misrepresentation, or subterfuge; or (2) by the concealment of a
material fact.

9. Code section 125.3 provides that the Board may request the administrative
law judge to direct a licensee found to have committed a violation or violations of the licensing
act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of
the case.

24 DRUGS

25 10. "Demerol" is a brand of meperidine hydrochloride, a derivative of
26 pethidine, and a Schedule II controlled substance as designated in Health and Safety Code
27 section 11055, subdivision (c)(17), and a dangerous drug within the meaning of Code
28 section 4022.

1 **Background**

2 11. Beginning on or about November 14, 2005, until her resignation on
3 or about June 1, 2006, Respondent was employed as a registered nurse by the California
4 Department of Corrections and Rehabilitation, Division of correctional Health Care
5 Services, High Desert State Prison (HDSP), located in Susanville, California.

6 12. On or about May 27, 2006, Respondent was on duty as the Correctional
7 Treatment Center (CTC) Emergency Room 1st Watch Lead Nurse. As Lead Nurse, Respondent
8 had been issued a key to restrict access to the CTC narcotic's cabinet where controlled
9 substances were stored. Whenever a nurse assigned to the CTC's Emergency Room 1st Watch
10 required access to a narcotic medication, Respondent was responsible for unlocking the
11 controlled substance cabinet so that the medication could be obtained for patient administration.
12 A Requisition for Controlled Substance Log is to be completed by the nurse administering the
13 medication.

14 13. On or about May 31, 2006, a monthly audit by HDSP's Supervising
15 Pharmacist Jason Kerby of the CTC Emergency Room's Requisition for Controlled Substance
16 Log for the month of May 2006 disclosed multiple discrepancies related to respondent's access,
17 possession, and administration of the controlled substance Demerol.

18 **FIRST CAUSE FOR DISCIPLINE**

19 (Obtained and Possessed, a Controlled Substance and Dangerous Drug)

20 14. Respondent's license is subject to discipline for unprofessional conduct
21 under Code section 2762, subdivision (a), in that on or about May 27, 2006, while employed and
22 on duty at HDSP as the CTC Emergency Room 1st Watch Lead Nurse, Respondent committed
23 acts, as follows:

24 a. Respondent obtained Demerol, a controlled substance, by fraud,
25 deceit, misrepresentation or subterfuge by taking the drugs from hospital supplies, in violation of
26 Health and Safety Code section 11173, subdivision (a).

27 b. Respondent possessed Demerol, a controlled substance, without a
28 valid prescription therefor, in violation of Code section 4060.

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15. Respondent's license is subject to discipline for unprofessional conduct under Code section 2762, subdivision (e), in that while employed and on duty at HDSP as the CTC Emergency Room 1st Watch Lead Nurse, Respondent made false, grossly incorrect or grossly inconsistent entries in hospital, patient or other records pertaining to controlled substances. On or about May 27, 2006, at a time unknown, Respondent recorded that a 100 mg dose of Demerol had been administered to "Patient Vasquez (Patient No. T-56848)", a fictitious patient, that the medication had been ordered by Dr. James, and that it was administered by another registered nurse. Respondent later recorded that the 100 mg dose of Demerol had actually been administered to Patient R.N. (Patient No. V78302); however there was no physician's order for Demerol for that patient. Respondent failed to account for the disposition of any portion of the 100 mg of Demerol in any hospital, patient or other record.

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing the Board issue a decision:

1. Revoking or suspending Registered Nurse License Number 647564, issued to Rebecca Lynn Dipoli;
2. Ordering Rebecca Lynn Dipoli to pay the reasonable costs incurred by the Board in the investigation and enforcement of this case pursuant to Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 7/1/08

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